

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CHINA GRILL, INC.,	:	<u>NOTICE OF REMOVAL</u>
	:	
Plaintiff,	:	
	:	Civil Action No.: _____
vs.	:	
	:	Removed from:
ADP, LLC,	:	Supreme Court of the State of New York,
	:	County of New York,
Defendant.	:	Index. No. 651818/2019
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PLEASE TAKE NOTICE that defendant ADP, LLC (“ADP”), by and through its undersigned counsel, files this Notice of Removal to remove this action from the Supreme Court of the State of New York, County of New York to the United States District Court for the Southern District of New York pursuant to 28 U.S.C. §§ 1332, 1441 and 1446. The grounds for removal are as follows:

PROCEDURAL BACKGROUND

1. On March 28, 2019, plaintiff China Grill, Inc. (“China Grill”) commenced this action by filing a Summons and Complaint (the “Complaint”) in the Supreme Court of the State of New York, County of New York, Index No. 651818/2019. True and correct copies of the Summons and Complaint filed by China Grill are attached hereto as Exhibit A.

2. This action arises out of a contract pursuant to which ADP provided certain payroll services to China Grill.

3. The Complaint contains three causes of action: (i) breach of contract; (ii) gross negligence; and (iii) breach of the implied covenant of good faith and fair dealing.

4. In the Complaint, China Grill seeks alleged damages of at least \$2 million. See Complaint, ¶¶48, 53, 60.

5. On March 29, 2019, counsel for ADP accepted service of the Complaint. Plaintiff filed an affidavit of service on April 1, 2019. A true and correct copy of the affidavit of service is attached hereto as Exhibit B. There have been no further filings in the Supreme Court of the State of New York, County of New York.

GROUND FOR REMOVAL

6. Pursuant to 28 U.S.C. § 1332, this Court has original jurisdiction over this action based on diversity of citizenship.

7. China Grill is a New York corporation with its principal place of business in New York.

8. ADP is a Delaware limited liability company with its principal place of business in New Jersey.

9. No member of ADP is a citizen of New York or maintains its principal place of business in New York.

10. China Grill seeks damages over and above \$75,000.00, exclusive of interests and costs.

11. This Court has subject matter jurisdiction over this action because complete diversity of citizenship exists, and China Grill seeks damages in excess of \$75,000.00.

**THE PROCEDURAL REQUIREMENTS FOR
REMOVAL HAVE BEEN SATISFIED**

12. After China Grill commenced suit on March 28, 2019, counsel for China Grill emailed a courtesy copy of the filed Complaint to ADP's counsel. Pursuant to 28 U.S.C. § 1446(b), this Notice of Removal is filed within thirty days thereof.

13. In accordance with 28 U.S.C. § 1446(d), upon the filing of this Notice of Removal with this Court, ADP will give prompt written notice to all adverse parties and file a copy of this Notice of Removal with the Supreme Court of the State of New York, County of New York.

WHEREFORE, defendant ADP, LLC respectfully submits that this action is now removed from the Supreme Court of the State of New York, County of New York and is properly before the United States District Court for the Southern District of New York, and that all further actions should take place before this Court.

Dated: New York, New York
April 25, 2019

Respectfully submitted,

KELLEY DRYE & WARREN LLP

By: /s/ William S. Gyves

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